

# HOUSE BILL No. 1402

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-2-7; IC 6-6-14; IC 6-6-15.

**Synopsis:** Taxation of heavy equipment. Converts the taxation of motorized heavy equipment vehicles from the property tax to an excise tax. Excludes motorized heavy equipment vehicles from property tax assessment in 2014. Provides that motorized heavy equipment vehicles are subject to registration with the department of state revenue and the excise tax beginning in 2015. Imposes a rental excise tax on the rental of motorized heavy equipment vehicles beginning in 2014. Provides a credit against the excise tax equal to the rental excise taxes paid in the preceding calendar year.

**Effective:** Upon passage.

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January 16, 2014, read first time and referred to Committee on Ways and Means.

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Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1402

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-1.1-2-7, AS AMENDED BY P.L.1-2009,  
2 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 7. (a) As used in this section, "nonbusiness  
4 personal property" means personal property that is not:  
5 (1) held for sale in the ordinary course of a trade or business;  
6 (2) held, used, or consumed in connection with the production of  
7 income; or  
8 (3) held as an investment.  
9 (b) The following property is not subject to assessment and taxation  
10 under this article:  
11 (1) A commercial vessel that is subject to the net tonnage tax  
12 imposed under IC 6-6-6.  
13 (2) A motor vehicle that is subject to the annual license excise tax  
14 imposed under IC 6-6-5.  
15 (3) A motorized boat or sailboat that is subject to the boat excise  
16 tax imposed under IC 6-6-11.



(4) Property used by a cemetery (as defined in IC 23-14-33-7) if the cemetery:

(A) does not have a board of directors, board of trustees, or other governing authority other than the state or a political subdivision; and

(B) has had no business transaction during the preceding calendar year.

(5) A commercial vehicle that is subject to the annual excise tax imposed under IC 6-6-5.5.

(6) Inventory.

(7) A recreational vehicle or truck camper that is subject to the annual excise tax imposed under IC 6-6-5.1.

(8) The following types of nonbusiness personal property:

(A) All-terrain vehicles.

(B) Snowmobiles.

(C) Rowboats, canoes, kayaks, and other human powered boats.

(D) Invalid chairs.

(E) Yard and garden tractors.

(F) Trailers that are not subject to an excise tax under:

(i) IC 6-6-5-5.5;

(ii) IC 6-6-5.1; or

(iii) IC 6-6-5.5.

**(9) For an assessment date after February 28, 2014, a motorized heavy equipment vehicle (as defined by IC 6-6-14-2).**

SECTION 2. IC 6-6-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 14. Motorized Heavy Equipment Vehicle Excise Tax**

**Sec. 1. As used in this chapter, "department" means the department of state revenue.**

**Sec. 2. As used in this chapter, "motorized heavy equipment vehicle" means a self-propelled motorized vehicle, including any attachment, with a declared gross weight of at least one thousand five hundred (1,500) pounds, which:**

**(1) is not intended to be permanently affixed to any real property and includes equipment designed for construction, industrial, maritime, or mining use;**

**(2) is not subject to registration under IC 9-18 for use on a public highway (as defined in IC 9-25-2-4); and**

**(3) is subject to registration with the department.**



1       **Sec. 3.** As used in this chapter, "owner" means a person who  
 2 holds or is required to obtain a certificate of registration from the  
 3 department for a specific motorized heavy equipment vehicle.

4       **Sec. 4.** As used in this chapter, "registration date" means May  
 5 1.

6       **Sec. 5.** Beginning with the 2014 assessment date for property  
 7 taxes first due and payable in 2015, and each assessment date  
 8 thereafter, a motorized heavy equipment vehicle:

9           (1) is not subject to ad valorem property taxes; and

10          (2) may not be assessed as personal property for the purpose  
 11 of the assessment and levy of personal property taxes.

12       **Sec. 6. (a)** This section applies to a registration date occurring  
 13 in 2015 and each year thereafter.

14       **(b)** Except as otherwise provided in this chapter, a person who  
 15 owns a motorized heavy equipment vehicle that is in Indiana on  
 16 March 1 for use in Indiana shall:

17           (1) register the motorized heavy equipment vehicle with the  
 18 department under section 7 of this chapter; and

19           (2) pay the excise tax imposed under section 10 of this  
 20 chapter;

21 not later than the registration date of that year.

22       **Sec. 7. (a)** To register a motorized heavy equipment vehicle, the  
 23 owner of the motorized heavy equipment vehicle shall:

24           (1) apply for a certificate of registration with the department  
 25 on a form prescribed by the department; and

26           (2) pay a filing fee of ten dollars (\$10) at the time the owner  
 27 submits to the department the application for a certificate of  
 28 registration.

29       **(b)** The department shall file each application received under  
 30 subsection (a) and issue to the owner a certificate of registration  
 31 together with any other evidence of registration the department  
 32 may require to be carried in or affixed to the motorized heavy  
 33 equipment vehicle upon receipt of the filing fee imposed under  
 34 subsection (a) and the excise tax imposed under section 10 of this  
 35 chapter.

36       **Sec. 8.** A certificate of registration for a motorized heavy  
 37 equipment vehicle is valid for one (1) year and expires on the  
 38 registration date of the calendar year following the year in which  
 39 the certificate of registration is issued.

40       **Sec. 9.** The payment of the tax imposed by section 10 of this  
 41 chapter is:



- (1) a condition to the right to register a motorized heavy duty equipment vehicle under section 7 of this chapter; and  
 (2) in addition to all other conditions prescribed by law.

**Sec. 10. (a)** This section applies to a motorized heavy equipment vehicle registered under section 7 of this chapter in a calendar year beginning after December 31, 2014.

**(b)** There is imposed an annual license excise tax upon motorized heavy equipment vehicles, which tax shall be in lieu of the ad valorem property tax levied for state or local purposes.

**Sec. 11.** The excise tax imposed by section 10 of this chapter equals two percent (2%) of the taxable value of the motorized heavy equipment vehicle as determined under section 12 of this chapter.

**Sec. 12. (a)** The taxable value of a motorized heavy equipment vehicle is determined by multiplying the acquisition cost of the motorized heavy equipment vehicle by the applicable percentage set forth in subsection (b).

**(b)** The following table provides for each year that a motorized heavy equipment vehicle is in service the applicable percentage used to determine the taxable value of the motorized heavy equipment vehicle under subsection (a):

<b>Years in Service</b>	<b>Percentage of Original Cost</b>
<b>1</b>	<b>40%</b>
<b>2</b>	<b>56%</b>
<b>3</b>	<b>42%</b>
<b>4</b>	<b>32%</b>
<b>5</b>	<b>24%</b>
<b>6</b>	<b>18%</b>
<b>7 or more</b>	<b>15%</b>

**Sec. 13. (a)** An owner who rents motorized heavy equipment vehicles to others is entitled to a credit against the total amount of excise tax liability owed for all the motorized heavy equipment vehicles registered by the owner in a particular registration year. The amount of the credit equals the total amount of motorized heavy equipment vehicle rental excise taxes collected and remitted by the owner under IC 6-6-15 during the immediately preceding calendar year.

**(b)** To the extent that the credit exceeds the amount of excise tax due under this chapter, the owner may carry forward the excess credit for up to seven (7) years to apply against the owner's excise tax in subsequent registration years.



1       **Sec. 14. The department may establish procedures, prescribe**  
 2 **forms, and adopt rules and regulations necessary for:**

- 3           (1) the administration of this chapter;  
 4           (2) the collection of the tax imposed by this chapter; and  
 5           (3) the proper accounting of the tax imposed by this chapter.

6       **Sec. 15. (a) The department shall allocate each motorized heavy**  
 7 **equipment vehicle excise tax payment collected by the department**  
 8 **to the county:**

- 9           (1) in which the motorized heavy equipment vehicle is usually  
 10          located when not in operation;  
 11          (2) of residence of the owner of the motorized heavy  
 12          equipment vehicle; or  
 13          (3) containing the office location where the motorized heavy  
 14          equipment vehicle is based if the taxpayer is not a resident of  
 15          Indiana.

16       **Before July 15, the department shall annually distribute to each**  
 17 **county treasurer the motorized heavy equipment vehicle excise**  
 18 **taxes that were collected by the department during the preceding**  
 19 **state fiscal year and that the department has allocated to that**  
 20 **county.**

21       **(b) Concurrently with making a distribution of motorized heavy**  
 22 **equipment vehicle excise taxes, the department shall send a**  
 23 **motorized heavy equipment vehicle excise tax report to the county**  
 24 **treasurer and the county auditor. The department shall prepare**  
 25 **the report on the form prescribed by the state board of accounts.**  
 26 **The motorized heavy equipment vehicle excise tax report must**  
 27 **include motorized heavy equipment vehicle identification, owner**  
 28 **information, and excise tax payment, and must indicate the county**  
 29 **where the motorized heavy equipment vehicle is normally kept**  
 30 **when not in operation. The department shall, in the manner**  
 31 **prescribed by the state board of accounts, maintain records**  
 32 **concerning the motorized heavy equipment vehicle excise taxes**  
 33 **received and distributed by the department.**

34       **(c) Each county treasurer shall deposit money received by the**  
 35 **treasurer under this chapter in a separate fund to be known as the**  
 36 **motorized heavy equipment vehicle excise tax fund. The money in**  
 37 **the motorized heavy equipment vehicle excise tax fund must be**  
 38 **distributed to the taxing units of the county and allocated among**  
 39 **the taxing units' funds in the same proportion that the taxing units'**  
 40 **property tax collections are allocated among those funds.**

41       **SECTION 3. IC 6-6-15 IS ADDED TO THE INDIANA CODE AS**  
 42 **A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON**



PASSAGE]:

**Chapter 15. Motorized Heavy Equipment Vehicle Rental Excise Tax**

**Sec. 1. This chapter applies to the rental of a motorized heavy equipment vehicle occurring after March 31, 2014.**

**Sec. 2. As used in this chapter, "department" means the department of state revenue.**

**Sec. 3. As used in this chapter, "gross retail income" means the amount of consideration, including cash, credit, property, and services, for which a motorized heavy equipment vehicle is rented, but does not include income attributed to delivery charges, installation charges, and other ancillary charges by the retail merchant that are in addition to the actual rental charge, as well as income attributed to those items listed in IC 6-2.5-1-5(b).**

**Sec. 4. As used in this chapter, "motorized heavy equipment vehicle" has the meaning set forth in IC 6-6-14-2.**

**Sec. 5. As used in this chapter, "person" has the meaning set forth in IC 6-2.5-1-3.**

**Sec. 6. As used in this chapter, "rental" means any transfer of possession or control of a motorized heavy equipment vehicle for a period not to exceed three hundred sixty-five (365) days for consideration. The term includes the transfer of possession or control of a motorized heavy equipment vehicle when the period of possession or control is not defined by contract or when there is an open ended contract regarding the period of possession or control of the motorized heavy equipment vehicle.**

**Sec. 7. As used in this chapter, "retail merchant" has the meaning set forth in IC 6-2.5-1-8.**

**Sec. 8. (a) An excise tax, known as the motorized heavy equipment vehicle rental excise tax, is imposed upon the rental of a motorized heavy equipment vehicle in Indiana.**

**(b) The motorized heavy equipment vehicle rental excise tax imposed upon the rental of a motorized heavy equipment vehicle equals three percent (3%) of the gross retail income received by the retail merchant for the rental.**

**Sec. 9. The person who rents the motorized heavy equipment vehicle for the person's use is liable for the motorized heavy equipment vehicle rental excise tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the rental. The retail merchant shall collect the tax as an agent for the state.**

**Sec. 10. (a) Except as otherwise provided in this section, the**



1 motorized heavy equipment vehicle rental excise tax shall be  
2 imposed, paid, and collected in the same manner that the state  
3 gross retail tax is imposed, paid, and collected under IC 6-2.5.

4 (b) Each retail merchant filing a return for the motorized heavy  
5 equipment vehicle rental excise tax shall indicate in the return:

6 (1) each location in Indiana where the retail merchant  
7 collected motorized heavy equipment vehicle rental excise  
8 taxes; and

9 (2) the amount of motorized heavy equipment vehicle rental  
10 excise taxes collected at each location.

11 (c) The return to be filed for the payment of the motorized  
12 heavy equipment vehicle rental excise tax may be either a separate  
13 return or may be combined with the return filed for the payment  
14 of the state gross retail tax, as prescribed by the department.

15 Sec. 11. (a) All revenues collected from the motorized heavy  
16 equipment vehicle rental excise tax must be deposited in a special  
17 account of the state general fund called the motorized heavy  
18 equipment vehicle rental excise tax account.

19 (b) On or before May 20 and November 20 of each year, all  
20 amounts held in the motorized heavy equipment vehicle rental  
21 excise tax account must be distributed to the county treasurers of  
22 Indiana.

23 (c) The amount to be distributed to a county treasurer equals  
24 that part of the total motorized heavy equipment vehicle rental  
25 excise taxes being distributed that were initially imposed and  
26 collected from within that treasurer's county. The department shall  
27 notify each county auditor of the amount of taxes to be distributed  
28 to the county treasurer. At the same time each distribution is made  
29 to a county treasurer, the department shall certify to the county  
30 auditor of each taxing district within the county where motorized  
31 heavy equipment vehicle rental excise taxes were collected and the  
32 amount of the county distribution that was collected with respect  
33 to each taxing district. The motorized heavy equipment vehicle  
34 rental excise tax shall be attributed to the location where the  
35 motorized heavy equipment rental vehicle was initially rented.

36 (d) The county treasurer shall deposit motorized heavy  
37 equipment vehicle rental excise tax collections in a separate  
38 account for settlement at the same time as property taxes are  
39 accounted for and settled in June and December of each year.

40 (e) The county auditor shall apportion and the county treasurer  
41 shall distribute the motorized heavy equipment vehicle rental  
42 excise taxes among the taxing units of the county in the same





1 manner that property taxes are apportioned and distributed with  
2 respect to property located in the taxing district where the  
3 motorized heavy equipment vehicle rental excise tax was initially  
4 imposed and collected. The motorized heavy equipment vehicle  
5 rental excise taxes distributed to a taxing unit must be allocated  
6 among the taxing unit's funds in the same proportion that the  
7 taxing unit's property tax collections are allocated among those  
8 funds.

9 (f) Taxing units of a county may request and receive advances  
10 of motorized heavy equipment vehicle rental excise tax revenues in  
11 the manner provided under IC 5-13-6-3.

12 (g) All distributions from the motorized heavy equipment  
13 vehicle rental excise tax account must be made by warrants issued  
14 by the auditor of state to the treasurer of state ordering those  
15 payments to the appropriate county treasurer.

16 SECTION 4. An emergency is declared for this act.

